

**Applicant:** Bernalillo County  
Zoning, Building, Planning &  
Environmental Health Department  
111 Union Station St. SE  
Albuquerque, NM 87111

**Property Owner:** Danlar Enterprises  
102 Alameda Blvd. NW  
Albuquerque, NM 87114

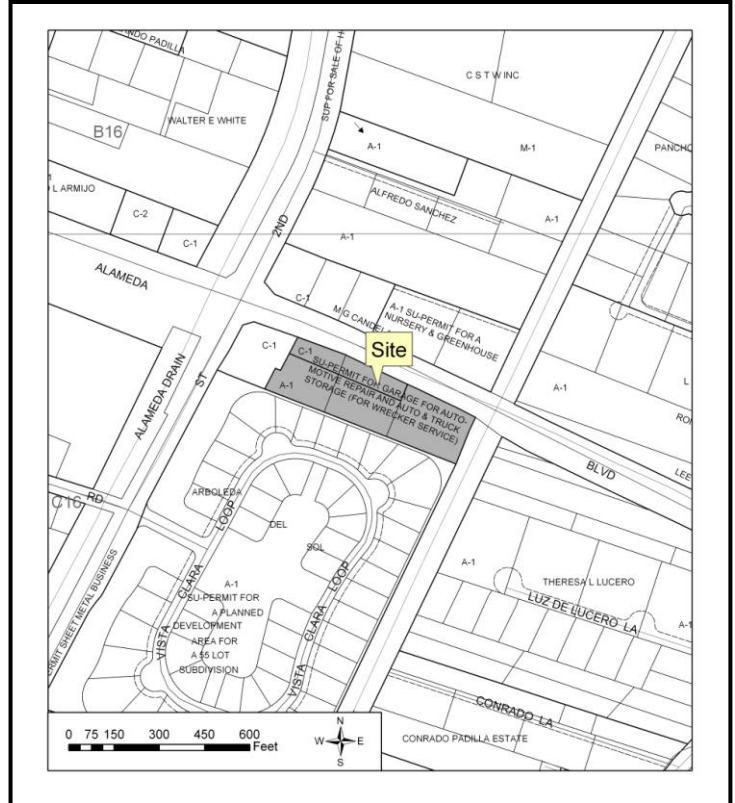
**Location:** 5802 Edith Blvd. NE

**Property Size:** 2.94 acres (approximately)

**Existing SUP:** Garage for Automotive  
Repair and Auto and Truck  
Storage (for wrecker service)

**Zoning:** C-1/A-1

**Recommendation:** Cancellation



**Summary:** The Zoning, Building, Planning & Environmental Health Department is proposing cancellation of an existing Special Use Permit for a Garage for Automotive Repair and Auto and Truck Storage (for wrecker service) (CSU-60018). Despite contact from the Zoning Enforcement Office, initial inspections noted that structures are located on the site but are not shown on the approved site plan and that several conditions of approval have not been met, including the required surfacing (paving). Several other conditions, such as grading and drainage plan, driveway permit, water and sewer connections, and landscaping and wall (front), also have not been met.

**Staff Contact:** Catherine VerEecke, Program Planner

**Attachments:**

1. Notice of Decision for Special Use Permit (9/28/06)
2. Notices of violation (2008)
3. Notice of intent to cancel SUP (3/1/10)
4. Letter from agent in response to intent to cancel (6/22/10)
5. Zone Atlas page, land use map.
6. Approved site plan (5/16/08) (Commissioners only)

CSU-60018 Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for an Automotive Repair & Truck Storage for a Wrecker Service on Tracts B-1, B-2, & B-3, Lands of Montoya & Armijo, SP-87-264, located at 102 Alameda Blvd. NW, zoned A-1 & C-1, and containing approximately 2.94 acres. (C-16)

## AREA CHARACTERISTICS AND ZONING HISTORY

### Surrounding Zoning & Land Uses

	<b>Zoning</b>	<b>Land use</b>
<b>Site</b>	A-1 & C-1/ Special Use Permit for Garage for Automotive Repair and Auto and Truck Storage (for wrecker service)	Auto body repair Towing service
<b>North</b>	A-1/Special Use Permit for Nursery	Nursery
<b>South</b>	A-1 Special Use Permit for Planned Development Area	Single family residential
<b>East</b>	--	Railroad
<b>West</b>	C-1	Convenience store & gas station

## **BACKGROUND**

### **Special Use Permit History & Overview**

On September 28, 2006, the Board of County Commissioners authorized a Special Use Permit for a Garage for Automotive Repair and Auto and Truck Storage (for wrecker service) on a 2.94 acre property located on Alameda Blvd. to the east of Second St. and west of the railroad tracks (CSU-60018). The property consists of three parcels (Tracts B-1, B-2 and B-3, Lands of Montoya & Armijo) with A-1 and C-1 zoning and includes a 10,000 square foot building (garage and office) and a large parking area associated with an auto body and towing business. The Special Use Permit was granted for 20 years with 15 conditions of approval (See Attachment 1—Notice of Decision). The final site plan that reflected the conditions of approval was approved on May 16, 2008. The site plan shows a second 12,000 square foot building which has not been constructed. The area is now being used for auto and truck storage.

The property previously had two Special Use Permits that had been granted in the 1980s. The easterly two tracts had a Special Use Permit for Auto Paint and Body (CSU-87-30) and the westerly tract (B-1) had a Special Use Permit for C-1 Uses (CSU-87-51). The current owner of the property has owned and operated his business—Danlar Collision—on the property since the late 1980s.

The request was the result of the expansion of the auto paint and body business onto Tract B-1 and the addition of a towing service on the property, which had not been approved under the Special Use Permits. The new Special Use Permit would bring the entire property under one Special Use Permit and would bring the property up to current standards. The conditions of approval were in such requirements as grading and drainage, paving of parking areas for auto and truck storage (required for auto and truck storage under Section 15.b.2.b of the Zoning Ordinance), walls, landscaping, water and sewer connections, Air Quality, and access approval to the State Highway (Alameda Blvd.). The property also falls within the Alameda Design Overlay Zone.

Since the time of the approval of the Special Use Permit request in 2006, the property has failed to comply with the approved site plan and several of the conditions of approval. Beginning in 2008, letters were sent from the Zoning Enforcement Office indicating that the property was not in compliance with the approved site plan (Attachment 2—Notice of Violation). The violations noted in the letters included the failure to provide paving of the parking areas on the site and the addition of structures on the site that are not shown on the approved site plan. Although a condition regarding permits was addressed (Condition 5) no obvious actions were taken by the property owner to address the noted violations. On March 1, 2010, the Zoning Administrator sent the property owner a letter of intent to cancel the Special Use Permit (Attachment 3—Letter of Intent).

Most recently, a follow-up inspection and review by staff revealed that the property still does not comply with the approved site plan and several of the conditions of the Special Use Permit as noted by the Zoning Enforcement Office. Parking areas on Tracts 1 and 2 have not been fully paved according to the standards of Section 15.b.2.b and Section 21 of the Zoning Ordinance which both require solid surfacing for parking and storage of autos and trucks (Condition 1). In addition, the solid wall to be added along Alameda Blvd. to the north of the garage/office building has not been constructed (Condition 7). Further, staff noted that

although there is landscaping on the site, the landscaping along the south side of the property where it abuts residential use is incomplete (Condition 8). Other conditions that do not appear to have been met required the following: grading and drainage plan (Condition 9), NMDOT driveway permit (Condition 10), and water and sewer connections (Condition 11). There also are at least three additional buildings on the site that are not on the approved site plan.

Although some efforts have been made by the property owner to address some of the conditions of approval, and the agent has met with staff to discuss the outstanding conditions, at the time of the completion of this report, the property still was not in compliance with the site plan and required conditions. The agent has submitted a letter on the status of the conditions of approval and is requesting additional time to meet the conditions of approval (Attachment 4—Letter from agent regarding intent to cancel).

### **Subject Site & Surrounding Properties**

The subject property is located on the south side of Alameda Blvd. to the west of the railroad tracks and east of Second St. The site has provided a transition between the commercial uses to the west on Alameda Blvd. and to the south and east of the site.

There are a number of businesses nearby the site, extending beyond Fourth St. To the immediate west of the site on the south side of Alameda Blvd. is a convenience store and gas station under C-1 zoning. On the north side of Alameda Blvd. nearby the site, the commercial uses include a convenience store and gas station, a Jiffy Lube, a Sonic drive-through restaurant, a car wash, and two nursery/greenhouses.

To the northeast, south, and east of the site, properties have residential uses. To the immediate south is located a 55 lot Planned Development Area with cluster housing.

## **APPLICABLE REGULATIONS & POLICIES**

### **Comprehensive Zoning Ordinance of Bernalillo County**

#### Section 18. Special Use Permit Regulations.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

(a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.

(b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant,

agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.

(c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.

(d) Any violation o the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

## **ANALYSIS**

This request seeks cancellation of a Special Use Permit for a Garage for Automotive Repair and Auto and Truck Storage (for wrecker service) on a 2.94 acre property (three lots) located on Alameda Blvd. to the east of Second St. and west of the railroad tracks (CSU-60018). The request was approved by the Board of County Commissioners in September, 2006 with 15 conditions. Under the Special Use Permit, the applicant's auto body and repair business expanded onto the westerly lot and added the ability for auto and truck storage in connection with a towing (wrecking) service. The property, which has an underlying zoning of A-1 and C-1, is located adjacent to Alameda Blvd. on the north and residential properties on the south, so that conditions approved by the Board of County Commissioners in 2006 took into account the need to minimize the impact of the uses on the neighborhood.

Since the Special Use Permit was approved in 2006, there have been a number of issues with the property's not meeting conditions of approval and not complying with the approved site plan, particularly with paving the parking areas and the location of additional buildings on the site that are not on the site plan (Attachment 2). Planning staff has recently reviewed the site's compliance with the conditions of approval and has found that other conditions that have not been met, as noted on pages 3 and 4 above. Because of the continued non-compliance of the property with the approved site plan, staff has brought this case forward for cancellation of the Special Use Permit.

As Special Use Permits authorize land uses that are not expected or generally allowed to occur within a zone, compliance with any and all limitations is required. The subject property

still has a number of violations of the Special Use Permit, which must be addressed to bring the property into compliance, including the following:

- landscaping (south property line)
- parking (paving)
- evidence of connection to water and sewer service
- complete final grading and drainage plan
- provide driveway permit from NMDOT

The short term solution to this matter may appear to be advisement from the County to the property owner for compliance with the approved site plan and conditions of approval. However, it should be noted that this matter has been turned over from the Zoning Enforcement Office for cancellation because of the limited effort demonstrated since the 2006 approval of the Special Use Permit to remedy the violations and ensure observance of the applicable standards.

### **Proposed Findings for Cancellation**

1. This is a request for cancellation of a Special Use Permit for a Special Use Permit for an Automotive Repair & Truck Storage for a Wrecker Service on Tracts B-1, B-2, & B-3, Lands of Montoya & Armijo, SP-87-264, located at 102 Alameda Blvd. NW, zoned A-1 & C-1, and containing approximately 2.94 acres.
2. This matter is a result of continued violations of the Special Use Permit (CSU-60018) and the corresponding site development plan approved for the permit, dated 5/16/08.
3. The property owner has failed to comply with the approved site development plan in that the surfacing of the site does not comply with the requirements for parking in accordance with Section 21 of the Zoning Ordinance) and for auto and truck storage under Section 15.b.2.b of the Zoning Ordinance. In addition, the landscaping along the south property line is insufficient, and additional buildings now exist on the site that are not shown on the site plan.
4. The site does not comply with the conditions of approval of the Special Use Permit in that property owner has not provided evidence of the following: approved grading and drainage plan, NMDOT driveway permit, and water and sewer connections.
5. The Bernalillo County Zoning Administrator notified the property owner of noncompliance with the provisions of the Special Use Permit on 3/1/10, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
6. This decision removes the Special Use Permit (CSU-60018) from the property, and reverts the zoning on the site back to the underlying zoning designation of A-1 (Rural Agricultural Zone) and (C-1 (Neighborhood Commercial Zone).

### **RECOMMENDATION:**

Cancellation of CSU-60018.

Catherine VerEecke  
Program Planner